



New Zealand Motor Caravan Association Inc.

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Economic Development, Science and Innovation Committee

Self-contained Motor Vehicles Legislation Bill

Submission from the NZMCA

12 October 2022

nzmea.org.nz

PO Box 72147 Papakura 2244



SUBMISSION TO	Economic Development, Science and Innovation Committee
REGARDING	Self-contained Motor Vehicles Legislation Bill
DATE	12 October 2022
SENT TO	Committee Secretariat Economic Development, Science and Innovation Committee Parliament Buildings Wellington eds@parliament.govt.nz
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REQUEST TO BE HEARD	Yes

EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

- 1 The New Zealand Motor Caravan Association Inc. (**NZMCA**) appreciates the opportunity to submit on the Self-contained Motor Vehicles Legislation Bill (**the Bill**). This follows our recent submission on the Ministry for Business, Innovation and Employment's (**MBIE**) Freedom Camping Regulations Discussion Document (**the Discussion Document**).
- 2 The NZMCA accepts that most of the changes outlined in the Bill are necessary to protect the environment and communities from the negative impacts of freedom camping. We also acknowledge that in the context of preserving tourism's social licence, most of the changes are necessary to maintain the permissive intent of the Freedom Camping Act 2011 (**the FCA**).
- 3 We have four primary concerns along with recommendations to improve the Bill:

- a) The default prohibition on freedom camping that applies to all land administered by Land Information New Zealand (**LINZ**).

RECOMMENDATION: Treat LINZ land consistent with the Bill's approach to NZTA land.

- b) Modifying the 'New Zealand Standard for Self Containment of Motor Caravans and Caravans NZS 5465:2001' (**the Standard**) for two-years immediately from the date the Bill receives royal assent.

RECOMMENDATION: Allow vehicles with portable toilets certified under the Standard prior to the Bill's *commencement date* to be recertified during *Periods 1 and 2* of the transitional provisions.

- c) Requiring certification authorities to issue hard copy self-containment certificates and warrant cards.

RECOMMENDATION: Remove the requirement for warrant cards and allow certification authorities to issue hard copy or electronic self-containment certificates.

- d) Requiring vehicles to be recertified every four (4) years.

RECOMMENDATION: Enable vehicle certification in perpetuity (unless a vehicle is modified) **or** extend the recertification period to at least 10 years.

- 4 This submission elaborates on these concerns and key recommendations. The amendments proposed by NZMCA will help facilitate a more simplified and cost-effective regulatory regime, improve the management of freedom camping, and encourage greater vehicle owner compliance without undermining the Bill's purpose.

WHY IS THE BILL NECESSARY?

- 5 We acknowledge the Government welcomes freedom campers who respect the environment and follow the rules. However, we understand the Government also recognises those abusing the rules have placed an unfair burden on small communities. At the heart of the Bill is a greater respect for our environment and communities¹.
- 6 The Bill was introduced, in part, because councils and communities have lost confidence in the Standard due to the careless actions of certain industry operators. For example:
 - Some Issuing Authorities are certifying vehicles with portable toilets to a lower standard than was anticipated following the review of NZS 5465 in 2016/17. In some cases, vehicle occupants have permanently removed their portable toilets or used the space for storage and bedding rendering the toilets inaccessible.
 - The Responsible Campers Association Inc. (**RCAi**) informs their followers that it is unlawful for local authorities and DOC to restrict freedom camping in certain areas to certified self-contained vehicles only (**Appendix 1**). RCAi believe that because the Standard is voluntary it cannot be referenced in local authority bylaws or DOC gazette notices. This is not the correct interpretation of the law, and RCAi's public messaging is confusing campers giving rise to unacceptable levels of non-compliance.
 - The RCAi issues self-containment cards that imitate the official warrant card required under NZS 5465 (**Appendix 2**). Enforcement officers have inadvertently accepted RCAi's imitation card as an official certification warrant. The Bill introduces provisions to address fake certification documents, however in our view, groups like the RCAi may continue issuing imitation cards undeterred by the Bill's offence provisions.
 - The RCAi recommends their followers refuse to cooperate with enforcement officers who verify certification documents at freedom camping sites, despite RCAi's accreditation programme requiring members to be polite when approached by enforcement officers (**Appendix 3**). The government can help protect enforcement officers from this abuse by removing the requirement for physical warrant cards and relying on the vehicle register as the primary means to confirm vehicle compliance.

ABOUT THE NZMCA

- 7 Founded in 1956, the NZMCA is a membership organisation representing the interests of over 113,000 individual New Zealanders who share a passion for exploring our country at leisure in their certified self-contained motorhomes and caravans.

¹ Government introduces the Bill to Parliament: <https://www.beehive.govt.nz/release/new-legislation-introduced-improve-sustainability-freedom-camping> (accessed 25 August 2022)

- 8 Our volunteer members established the concept of vehicle self-containment in the 1970's and wrote the first NZ Standard in 1990. The NZMCA has been involved in the last three reviews of the Standard and advocated for tighter requirements around the use of onboard toilets during the last review in 2016/17.
- 9 The NZMCA's constitution includes the following objectives:
- Promoting the safe and courteous operation of certified self-contained motor caravans in New Zealand.
 - Promoting road safety, safe driving and courteous behaviour by all members.
 - Promoting the provision of safe overnight Motor Caravan parking facilities for Members throughout New Zealand.
 - Promoting environmental sustainability and protection of the natural environment.
 - Promoting leadership in all matters associated with Motor Caravan activities in New Zealand.
 - Monitoring, promoting, protecting and advocating the collective interests and benefits of the Association and its members in all matters, whether legislative, regulatory or otherwise that may affect motor caravan activities.
 - Building positive working relationships with central, regional and local government.
- 10 The NZMCA is a founding member of the Responsible Camping Forum, educating domestic and international visitors on how to camp responsibly throughout New Zealand. We have a sound legal and practical understanding of the bylaw-making requirements under the FCA, including the FCA's complex relationship with the Reserves Act 1977 and Resource Management Act 1991.
- 11 As a preferred partner of Local Government New Zealand (**LGNZ**), the NZMCA has worked alongside LGNZ and DOC to develop model freedom camping bylaws and good practice guides that help local authorities understand the FCA's bylaw-making provisions, encouraging lawful decisions and reasonable outcomes. Since 2011, the Association has submitted on every local authority bylaw made under the FCA and we continue to provide input into the Department of Conservation's (**DOC**) draft gazette notices.

STATUTORY RECOGNITION OF CERTIFIED SELF-CONTAINMENT

- 12 The NZMCA's submission on the Freedom Camping Bill 2011 (**FC Bill 2011**) recommended requiring local authorities to at least consider permitting freedom camping in certified self-contained vehicles, prior to prohibiting the activity outright in local authority areas. We commend the Government for recognising the benefits of vehicle certification within this Bill.
- 13 Today, many local authorities, communities, government agencies, and industry stakeholders recognise the benefits of vehicle certification. Our records suggest 80% of all restricted freedom camping sites nationwide and <4% of all commercial public campsites (including vehicle-accessible DOC campsites) restrict access to certified self-contained vehicles only. Furthermore, the NZMCA operates 54 member-only campsites all of which restrict access to

certified self-contained vehicles. Our members also have access to over 850 private 'park over property' sites of which 630 (75%) restrict access to certified self-contained vehicles.

- 14 The NZMCA is the largest issuing authority in New Zealand. Over the past four years, our 500 testing officers have certified 54,644 member vehicles and 6,005 vehicles that belong to our partners in the commercial sector. The vast majority of our testing officers are volunteers who inspect our members' vehicles for free, while a small number of testing officers are affiliated with our commercial partners that operate under our certification programme.

Certification is part of the solution to protect our environment and ability to freedom camp

- 15 We are becoming increasingly concerned with the gradual demise of freedom camping opportunities as local authorities and DOC continue to prohibit more public areas with each passing year. For example, in December 2021, the Queenstown-Lakes District Council adopted their most prohibitive bylaw under the FCA effectively preventing New Zealanders from freedom camping in almost all local authority areas throughout the district, save for one restricted site. This is despite QLDC receiving over \$1.3 million in Government funding to develop a responsible camping strategy, install more public toilets, and employ ambassadors to promote responsible camping.
- 16 If/when the Bill passes into law, local authorities like QLDC will have the confidence to adopt more permissive bylaws that benefit responsible campers and their communities. QLDC made the following resolution when adopting its new prohibitive bylaw in December 2021²:

Agree that if there are changes to the New Zealand Self Containment Standards or relevant freedom camping legislation a review of these changes will be undertaken to determine if amendments to the Queenstown-Lakes Freedom Camping Bylaw 2021 are required.

- 17 This resolution was adopted to alleviate concerns expressed by QLDC's hearing panel that the prohibition of freedom camping in urban areas may not be the most proportionate response if its effects could be mitigated by a requirement for plumbed (fixed) toilets. The Council agenda report titled "Adoption of QLDC Freedom Camping Bylaw 2021" records³:

The Panel questioned if prohibition in town centres is the most proportionate response, or if effects could be mitigated through a higher standard and site restrictions to a sufficient extent that it could be allowed in town centres, or at least certain carparks. **103 Carparks in town centres could be made available to large motorhomes with a plumbed in [fixed] toilet if the QLDC bylaw could require a higher standard than the current NZ self-containment standards. This would enable sites that scored highly under s11 (2)(a)(i) (protect the area) of the Xyst Site Assessment report to be restricted sites only, as campers will be less likely to defecate outside campervans if they have plumbed-in toilets on board.** Council

² QLDC's full council meeting minutes date 16 December 2021.

³ QLDC's full council meeting agenda report titled "Adoption of QLDC Freedom Camping Bylaw 2021".

should keep using the current standard until Central Government has made changes to the NZ Self-Containment Standards and/or relevant freedom camping legislation, as has been recently signalled. If this policy work gets to a point that mean changes to the bylaw are required this will be done by way of an amendment to the bylaw.

(Our emphasis)

Requirement for people freedom camping on land managed by local authorities to be in self-contained vehicles

- 18 The NZMCA supports the Bill's explicit focus on vehicle-based camping, including the default position that requires freedom campers staying in vehicles on land managed by local authorities to use a certified self-contained vehicle, unless they are camping in designated areas that permit non-self-contained vehicles.
- 19 The NZMCA recognises many kiwi families enjoy freedom camping in tents and non-self-contained vehicles and that these opportunities should continue to remain available for New Zealanders, in appropriate areas. In our view, the Bill protects this right by excluding tents from the scope of legislation and empowering local authorities to designate freedom camping areas for people travelling in non-self-contained vehicles. The Bill also ensures local authorities can continue to create more freedom camping sites for any mode of camping under other statutes, e.g. the Local Government Act 2002 and the Reserves Act 1977.
- 20 The NZMCA agrees local authorities should not use the FCA's infringement regime to manage homelessness (i.e. people living in their vehicles involuntarily).

Slide on campers

- 21 Approximately 120 NZMCA members own slide-on campers, which are a type of recreational vehicle where the camper is mounted onto the flat tray of a ute which can then be easily removed at any time. This design is useful for people who want to leave their camper behind when day tripping in their vehicle, or for families who want to share a camper.
- 22 'Slide on campers' are not considered *motor vehicles* as defined in the Bill, however it is certainly possible for slide-on campers to be fitted with fixed toilets in accordance with the Government's new regime. Some thought needs to be given by the drafters of the Bill as to how slide on campers can continue to be certified under the new regulations.
- 23 **Appendix 4** includes photos of a typical slide on camper, along with a NZMCA members' project fitting a fixed toilet into the vehicle.

LAND ADMINISTERED BY LINZ

- 24 LINZ administers **two million hectares** of public land on behalf of the Crown⁴. Much of this land will be accessible by motor vehicles and therefore within scope of the FCA.



Figure 1: National overview of land administered by LINZ (Source: data.linz.govt.nz)

- 25 Section 19A of the Bill prohibits freedom camping across all LINZ land mapped in Figure 1 above, save for five designated freedom camping sites in Central Otago and the Mackenzie District⁵. The Bill's approach is inconsistent with sections 10 and 15 of the FCA and contrary to the permissive intent of the FCA, which permits freedom camping in any local authority or conservation area unless the area is restricted or prohibited in accordance with ss 10 and 15.
- 26 Parliament confirmed when enacting the FCA that freedom camping should be generally permitted in public areas. In 2011, DOC acknowledged the FCA's permissive intent by recognising the bulk of conservation land subject to the Act should be available for freedom camping, unless there are significant issues that require restrictions or prohibitions⁶.
- 27 In 2011, officials for the Department of Internal Affairs and Department of Conservation working on the FC Bill 2011 advised the Local Government and Environment Select Committee that the intent of that Bill was to prevent the widespread prohibition of freedom camping by limiting restrictions to particular areas. The FCA's approach is consistent with the NZ Bill of Rights Act 1990 and the proportionality test required under section 11(2) of the FCA⁷.

⁴ <https://www.linz.govt.nz/data/linz-data/crown-land-data> (Accessed 22 September 2022)

⁵ <https://www.linz.govt.nz/crown-property/types-crown-property/camping-areas> (Accessed 22 September 2022)

⁶ DOC's draft Freedom Camping Policy – December 2011

⁷ Freedom Camping Bill. Report of the Department of Conservation and the Department of Internal Affairs to the Local Government and Environment Committee – 7 July 2011 (page 26)

- 28 We have seen no evidence that justifies the need to virtually prohibit freedom camping on LINZ (public) land. This is a significant departure from Parliament's intention when it adopted the FCA in 2011. When the High Court⁸ assessed Marlborough District Council's freedom camping bylaw late last year, it agreed the Council had insufficient evidence to justify prohibiting freedom camping across the entire Marlborough region, save for five designated sites. We believe the same principal should be applied to Crown land.
- 29 It appears the rationale underpinning section 19A of the Bill is to prevent visitors from freedom camping on LINZ land under private lease agreements with third parties. With respect, this does not appear to be a widespread issue today and there is little risk of it happening in the future. Land administered by local authorities and DOC under private lease agreements with third parties are not subject to the FCA and to the best of our knowledge they have been operating without issue under the existing legislative framework. Furthermore, we expect leased land will be signposted or fenced off to restrict public access, so there is minimal risk of vehicle-based freedom campers accessing these areas.
- 30 It is common for LINZ land to adjoin local authority areas, and it is often difficult for responsible campers and enforcement officers to differentiate between the two. A blanket prohibition on LINZ land could lead to increased levels of non-compliance and conflict with enforcement officers. Particularly if freedom camping is prohibited on LINZ land that adjoins a local authority area not prohibited in a bylaw. We have used Waikawau Recreation Reserve in the Thames-Coromandel District as an example to help illustrate this risk (**Appendix 5**).
- 31 At Waikawau Recreation Reserve, it is impossible for visitors to distinguish between land administered by the Crown and land administered by the local authority. Most people simply see open space reserves like Waikawau as public land. Therefore, it would be appropriate to manage both parcels of land that make up this reserve in the same way, e.g. a local authority bylaw that may restrict or prohibit camping across the entire site, subject to the local authority obtaining written approval from LINZ.
- 32 We suggest the Bill maintains a consistent approach to regulating freedom camping on public land administered by local authorities and central government agencies. Responsible campers doing their best to follow local authority rules may inadvertently camp on prohibited LINZ land and risk receiving instant fines of up to \$1,000. Furthermore, enforcement officers unsure of the boundary lines between Crown, local authority, and DOC administered land may inadvertently issue invalid infringement notices for freedom camping on land that is not prohibited under the FCA. This is not an exaggerated risk.
- 33 In 2014, the NZMCA discovered through the Local Government Official Information Act hundreds of invalid FCA infringement notices issued in the Thames-Coromandel and Queenstown-Lakes Districts. Many of these invalid notices were issued on public land outside the scope of the local authority bylaws or beyond the councils' jurisdiction.

⁸ New Zealand Motor Caravan Association Incorporated v Marlborough District Council [2021] NZHC 3157

- 34 To be consistent with the central premise of the FCA and avoid undermining the intent of the Bill, we recommend treating LINZ land the same as Waka Kotahi NZTA land. This can be achieved by deleting sections 19A, 19B and 19C of the Bill and amending sections 10A and 11(3) as follows:

10A	Bylaws declaring NZTA and LINZ land to be local authority areas
(1)	A local authority may make bylaws declaring any area of NZTA <u>or LINZ</u> land in its district or region to be a local authority area for the purposes of this Act.
(2)	The local authority must not make a bylaw under subsection (1) without the written consent of the NZTA <u>or LINZ</u> .
(3)	<u>Bylaws declaring NZTA and LINZ land to be local authority areas are also subject to section 11B of the Act.</u>
11	Freedom camping bylaws
(3)	The local authority must obtain the written consent of the NZTA <u>or LINZ</u> before making a bylaw under subsection (1) that applies to an area of NZTA <u>or LINZ</u> land that has been declared, by a bylaw made under section 10A, to be a local authority area.

MODIFYING THE STANDARD IMMEDIATELY REQUIRING FIXED TOILETS

- 35 Over 3,600 NZMCA member vehicles are certified self-contained with a portable toilet that meets the requirements of NZS 5465. Approximately 3,200 of these vehicles will require recertification before 31 December 2025. However, vehicles with a portable toilet cannot be certified or recertified under the Standard for up to two-years from the Bill's commencement date. The main purpose of the Bill's transitional period is to provide local authorities, the regulator, certification authorities, and vehicle owners sufficient time to work together and transition over to the Government's new regime.
- 36 Moving forward, the NZMCA accepts certified self-contained vehicles used for freedom camping will require fixed toilets, however it is unreasonable to expect some 3,200 vehicle owners to risk the expense of modifying their vans in order to comply with the Government's new regime before the new self-containment regulations and guidelines are released (noting the regulations will be released some 6 months after the Bill's commencement date). The Bill's transitional steps will make it difficult for thousands of responsible New Zealanders – who might want to install fixed toilets in their vehicles – to comply with the new rules and remain certified but cannot do so until after the regulations and guidelines have been released.
- 37 Furthermore, it is unclear why the Standard should be modified for the two-year period when recently certified vehicles with portable toilets can continue to be used for freedom camping right up until the transition period expires. After that, vehicles with portable (and fixed) toilets can continue to be certified under the Standard, however they cannot be used for freedom camping other than in designated areas.

- 38 The NZMCA wants to help its interested members upgrade their vehicles to comply with the new certification requirements. However, there is little that can be achieved without advanced notice of the Bill's enactment and the release of the self-containment regulations and practical guidelines.
- 39 MBIE's latest information suggests the new self-containment regulations and guidelines will be released some 6-months after Parliament adopts the Bill, although this timeframe remains uncertain. Once the regulations and guidelines have been made public, it will take a few months for the industry to develop and circulate practical guidance for vehicle-specific conversions. It may also take a year or two for many vehicle owners to upgrade their vans, particularly with on-going supply chain issues and labour shortages across the trade industry.
- 40 The Government can help the public transition over to its new regime by allowing vehicles with portable toilets certified under the Standard prior to the Bill's *commencement date* to be recertified during *Periods 1 and 2* of the transitional provisions.

INSPECTING MOTOR VEHICLES AND ISSUING CERTIFICATION DOCUMENTS

- 41 The NZMCA generally supports the direction of the new regulatory system⁹, although there is clear scope to simplify the process, which will help reduce costs and encourage greater compliance. Our submission on MBIE's Discussion Document outlines a more cost-effective approach to managing the system, while reducing costs on the new regulator, certification authorities and vehicle owners.

Certification authorities should decide which vehicles they inspect and certify

- 42 Section 87U(2) of the Bill notes a certification authority must arrange a motor vehicle inspection upon receiving a request from any person. The Bill is fairly ambiguous as to whether certification authorities will have the discretion to determine which vehicles they inspect, perhaps opening the door for allegations of discrimination under the Human Rights Act. The NZMCA only certifies vehicles that belong to its members or preferred commercial partners. As a non-profit organisation, we rely on our network of volunteers to certify members' vehicles and we are not set up or adequately resourced to open this service to the general public. Under New Zealand's taxation laws, it would be difficult for most of our volunteers to charge for their time and service when inspecting non-member vehicles.
- 43 The NZMCA does not hold a monopoly on vehicle certification. Other organisations and qualified individuals (e.g. registered plumbers) certify vehicles under the Standard and will no doubt apply to become certification authorities under the new regime. We appreciate MBIE officials have verbally advised certification authorities can determine which vehicles they certify, however for the avoidance of doubt we **recommend** amending section 87U of the Bill as follows:

⁹ Noting the detailed supporting the new regulations and self-containment guidelines are still being prepared.

87U Self-containment certification authority may issue certificate of self-containment

- (1) A person may apply to a self-containment certification authority for a certificate of self-containment for a motor vehicle.
- (2) If the self-containment certification authority agrees to inspect a motor vehicle, it must—
- (a) arrange for a motor vehicle inspector appointed by the authority to carry out a motor vehicle inspection of the vehicle; and
 - (b) ensure that the inspection is carried out in accordance with requirements prescribed by regulations and notices issued by the Board under section 87F; and
 - (c) consider the findings of the inspection.

Certification authorities should only need to issue electronic certificates

- 44 Section 27A(1)(b) of the Bill enables enforcement officers to email infringement notices to vehicle owners for efficiency and to save on administration costs. However, section 87X of the Bill requires certification authorities to continue printing and posting paper certificates and plastic warrant cards every 4 years (mirroring the Standard requirements).
- 45 Warrant cards will become superfluous once certification authorities begin recording vehicle details in the new public register. The purpose of this register is to help enforcement officers and the public verify whether a vehicle is genuinely certified self-contained. It seems inefficient for the Government's new regime to maintain two separate validation systems.
- 46 Certification authorities should only be required to send vehicle owners either a hard copy or electronic version of their vehicle's self-containment certificate, which the owner can choose to print or save online and show enforcement officers on request. This approach will help improve the new system in three ways:
- a) **Simplify the process:** Emailing self-containment certificates will simplify the process for large certification authorities and vehicle owners who would otherwise be required to display a warrant card and keep hold of a physical certificate in their vehicles at all times. We expect there will be many small certification authorities (including individual plumbers) without the means to email self-containment certificates, and therefore the option to hand over a physical copy should be retained.
 - b) **Remove unnecessary costs:** Emailing certificates will minimise processing time and administration costs for certification authorities – costs that would naturally be passed on to vehicle owners and potentially disincentivise businesses from becoming certification authorities. For example, over the past 12 months NZMCA has issued more than 16,000 self-containment warrants at a cost of almost \$200,000. More businesses may be inclined to provide certification services if they are not required to invest in printers and expensive card printing machines. Print and postage costs will continue to rise sharply over the next few years, particularly when NZ postal services continue to decline.

- c) **Protect the environment:** An electronic system supports government policies for a more sustainable tourism industry by minimising the need to print certificates and avoiding the need to distribute tens of thousands of plastic warrant cards each year, all of which eventually end up in the landfill.

- 47 We recommend amending sections 87X and 87Y of the Bill requiring certification authorities to issue certificates only, either electronically or in hard copy form.

Vehicles with fixed toilets need only one inspection

- 48 From our observations, over 97% of vehicles certified with fixed toilets pass their renewal checks every 4 years without issue. There is no great value or benefit to the user, environment or community requiring these vehicles to be recertified every 4 years. Vehicle owners are not required to recertify their gas systems and homeowners are not required to engage a plumber every 4 years to reinspect their existing plumbing systems. We suggest amending this requirement to help minimise costs across the system.

To help minimise costs on the regulator, certification authorities and vehicle owners, we recommend the Bill enables vehicle certification in perpetuity (unless the vehicle is modified) or extend the recertification period for at least 10 years.

FINAL REMARKS

Thames-Coromandel District Council's submission on the Self-contained Motor Vehicles Legislation Bill

- 49 The Council recommends amending the FCA so that section 12 (Bylaws must not absolutely prohibit freedom camping) cannot be relied on in judicial review proceedings, and that such proceedings should be limited to section 11 matters only. The NZMCA opposes this submission and notes the recommendation is beyond the scope of the Bill.
- 50 In August 2011, the Local Government and Environment Committee recommended section 12 for the following reason:

to clarify, for the avoidance of doubt, that local authorities could not make bylaws absolutely prohibiting freedom camping in their districts. The [Freedom Camping] bill is intended to allow [local] authorities to specifically restrict or prohibit freedom camping in particular spots to protect the area or the health and safety of people visiting the area, not to make blanket bans preventing people from freedom camping anywhere in their districts, and this amendment, along with amendments to clause 3, would put this beyond doubt¹⁰.

¹⁰ Report from the Local Government and Environment Committee on the Freedom Camping Bill, August 2011 (page 4).

- 51 The Council's submission implies section 12 only prevents a local authority from making bylaws that prohibit freedom camping in **all** local authority areas. However, section 12 is clear – a local authority cannot make bylaws under section 11 of the FCA with the **effect** of prohibiting freedom camping in all local authority areas in its district. A bylaw will be illegal under section 12 if it has the **practical effect** of prohibiting freedom camping in all local authority areas in the district or region, even if it does not literally say that: see, for example, *Schubert v Wanganui District Council* [2011] NZAR 233 (HC) at [41]–[53]¹¹.
- 52 It appears the Council is endeavouring to circumvent the permissive premise of the FCA by allowing local authorities to adopt bylaws that essentially prohibit freedom camping in all areas save for perhaps one or two designated sites across the district. What is the point of this Bill, in particular the requirement for fixed toilets in certified self-contained vehicles, if local authorities are empowered to adopt prohibitive bylaws?

Summary

- 53 The NZMCA supports the main thrust of the Bill. However, there are four main areas of concern that we submit must be addressed to simplify the new certification regime, minimise unnecessary red tape and administration costs, help local authorities improve the management of freedom camping, increase compliance, and most importantly protect our communities and the environment.
- 54 Our members appreciate the opportunity to freedom camp across the country in their purpose-built self-contained vehicles. We acknowledge freedom camping is a polarising issue in some communities, and we recognise balancing local needs with those who enjoy freedom camping is a complex task. We commend MBIE officials for their work on the Bill and Regulations.
- 55 The NZMCA is available to discuss this submission in more detail, otherwise we look forward to speaking to our submission in front of the Economic Development, Science and Innovation Committee.
- End.

¹¹ Model freedom camping bylaw (page 4). Source: <https://www.lgnz.co.nz/our-work/our-policy-priorities/environment/freedom-camping/> (Accessed 12 October 2022).



APPENDIX 1

14 April 2021

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Tēnā koe

Department of Conservation enforcement of vehicle self-containment under the Freedom Camping Act

This letter sets out the Department of Conservation's position on enforcing vehicle self-containment standards under the Freedom Camping Act (the Act). Please feel free to share this information with your members.

Where freedom camping on public conservation land is restricted to self-contained vehicles only, vehicles must be certified as self-contained (meeting [New Zealand Standard 5465:2001](#) *Self-containment of motor caravans and caravans*).

This has been the Department's position since the Act came into force and our policy around vehicle self-containment and freedom camping is explained [on the DOC website](#). People found freedom camping in a vehicle that does not meet NZS 5465 in an area where camping is only permitted in self-contained vehicles will be issued with an infringement notice.

Any statement that the Department cannot legally enforce NZS 5465 is a misrepresentation of the facts. Self-containment standards are legally enforceable and enforcement officers have been issuing infringement notices under section 17(1) of the Act accordingly.

The Department's position is supported by recent legal advice prepared by Simpson Grierson on behalf of Local Government New Zealand and the New Zealand Motor Caravan Association. This legal opinion found that it is lawful for councils and the Department of Conservation to incorporate NZS 5465 into freedom camping bylaws and notices, and enforce them accordingly. This opinion is available on the Local Government New Zealand website.

Nāku noa, nā,

Steve Taylor
Director Heritage and Visitors

APPENDIX 4

Slide on campers



Typical example of a slide on camper

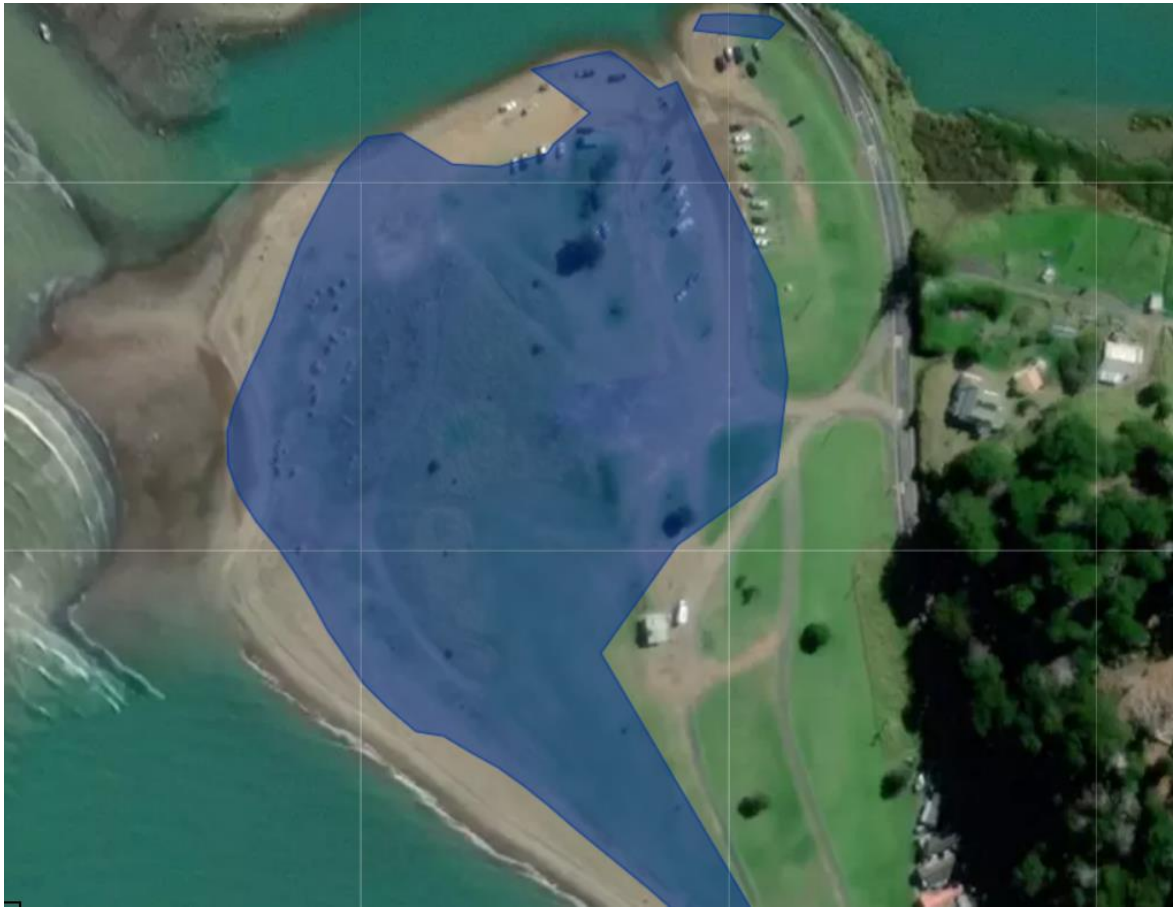
(Source: <https://nzmcd.co.nz/reviews/fifth-wheelers/cute-campa/>)



Example of NZMCA member fitting a 'fixed' toilet into a slide on camper vehicle. This camper is still under construction, however the toilet will be behind folding doors in its own compartment.

APPENDIX 5

Waikawau Beach Recreational Reserve, Thames-Coromandel District Council



Aerial image of Waikawau Beach Recreational Reserve. The **blue** shaded area is administered by LINZ with the immediately surrounding reserve land administered by TCDC.



Looking south across Waikawau Recreation Reserve (including LINZ and TCDC controlled land, with no distinct demarcation of the various land parcels)